

PATENT COOPERATION TREATY


PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

REC'D 10 FEB 2006

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| Applicant's or agent's file reference C/2BK87/CS/3 | | FOR FURTHER ACTION | | See Form PCT/PEA/416 |
| International application No. PCT/NL2004/000868 | | International filing date (day/month/year) 13.12.2004 | Priority date (day/month/year) 12.12.2003 | |
| International Patent Classification (IPC) or national classification and IPC A24F13/00, A24F7/04 | | | | |
| Applicant SMOOKZZ LICENCE B.V. | | | | |
| <p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 6 sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input checked="" type="checkbox"/> sent to the applicant and to the International Bureau a total of 2 sheets, as follows:</p> <p><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p> | | | | |
| <p>4. This report contains indications relating to the following items:</p> <p><input checked="" type="checkbox"/> Box No. I Basis of the opinion</p> <p><input type="checkbox"/> Box No. II Priority</p> <p><input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p><input type="checkbox"/> Box No. IV Lack of unity of invention</p> <p><input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p><input type="checkbox"/> Box No. VI Certain documents cited</p> <p><input checked="" type="checkbox"/> Box No. VII Certain defects in the international application</p> <p><input checked="" type="checkbox"/> Box No. VIII Certain observations on the international application</p> | | | | |
| Date of submission of the demand 12.10.2005 | | Date of completion of this report 09.02.2006 | | |
| Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465 | | Authorized Officer Pille, S Telephone No. +49 89 2399-2097 | | |



**INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY**

International application No.
PCT/NL2004/000868

Box No. I Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language , which is the language of a translation furnished for the purposes of:
- ☐ international search (under Rules 12.3 and 23.1(b))
 - ☐ publication of the international application (under Rule 12.4)
 - ☐ international preliminary examination (under Rules 55.2 and/or 55.3)
2. With regard to the **elements*** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:

Description, Pages

1-29 as originally filed

Claims, Numbers

3-39, 41-51 as originally filed

1, 2, 40 received on 14.10.2005 with letter of 12.10.2005

Drawings, Sheets

1/5-5/5 as originally filed

- ☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages
 - ☐ the claims, Nos.
 - ☐ the drawings, sheets/figs
 - ☐ the sequence listing (*specify*):
 - ☐ any table(s) related to sequence listing (*specify*):
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages
 - ☐ the claims, Nos.
 - ☐ the drawings, sheets/figs
 - ☐ the sequence listing (*specify*):
 - ☐ any table(s) related to sequence listing (*specify*):

* If item 4 applies, some or all of these sheets may be marked "superseded."

**INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY**

International application No.
PCT/NL2004/000868

Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

| | | |
|-------------------------------|-------------|------|
| Novelty (N) | Yes: Claims | 1-51 |
| | No: Claims | |
| Inventive step (IS) | Yes: Claims | 1-51 |
| | No: Claims | |
| Industrial applicability (IA) | Yes: Claims | 1-51 |
| | No: Claims | |

2. Citations and explanations (Rule 70.7):

see separate sheet

Box No. VII Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

see separate sheet

Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

see separate sheet

Re Item I.

- 1 In a telephone call on 31/01/06, the patent attorney, Mr Hylarides, stated that this International Preliminary Examination Report should be based on the auxiliary request filed on 12/10/05.

Re Item V.

- 2 Reference is made to the following documents:

D1 : US 5 388 595

D2 : US 5 529 078

D3 : US 5 396 907

D4 : WO 01/67899

D5 : US 5 402 803

- 3 INDEPENDENT CLAIMS

Document D1 discloses (the references in parentheses applying to this document) a: device for filtering tobacco smoke from a tobacco product (col. 1, l. 6-7), comprising a housing (fig. 2) in which the tobacco product (62) can be arranged, and a filter (106) for filtering tobacco smoke, the housing comprising:

- a tobacco reservoir (102) for holding (58) tobacco,
- an outside air feed (48, 66) for feeding from the environment outside air necessary for the combustion of the tobacco (col. 4, l. 10-11),
- a tobacco smoke discharge (112, 38) for discharging tobacco smoke caused by the combustion,
- a filter (106) connected to the tobacco smoke discharge (112) for filtering substances harmful to the environment from the tobacco smoke which can be guided therealong (col. 4, l. 50-62),
- a mouthpiece (56) which is connected to the tobacco reservoir and with which a smoker can inhale the tobacco smoke from the tobacco reservoir and can exhale the smoke to the tobacco smoke discharge (col. 5, l. 11-20).

The same analysis can be made starting from D2.

The subject-matter of claim 1 differs therefrom in that the tobacco smoke discharge comprises a first discharge channel for discharging smoke in the standby situation and a second discharge channel for discharging it in the exhaling situation and that a fan is arranged in the first discharge channel. These differentiating features are not shown or fairly suggested in the available prior art.

Independent method claim 40 uses the device according to claim 1 and its subject-matter is therefore also considered to be new and inventive.

- 4 The remaining claims are dependent from device claim 1 or method claim 40. Their subject-matter is therefore also considered to be new and inventive (Article 33(2) and (3) PCT).

Re Item VII.

- 5 The numbering of the claims is incorrect. There is, for instance, a newly filed claim 2 as well as an original claim 2.
- 6 The features of the claims are not provided with reference signs placed in parentheses (Rule 6.2(b) PCT).
- 7 Reference sign '76' denotes three different features: 'ion filter' (e.g. p. 23, l. 4), 'fan' (e.g. p. 23, l. 6) and 'electric motor' (e.g. p. 24, l. 21).

Re Item VIII.

- 8 Claims 2(original), 14, 15 and 43-46 do not meet the requirements of Article 6 PCT in that the matter for which protection is sought is not clearly defined. The claims attempt to define the subject-matter in terms of the result to be achieved, which merely amounts to a statement of the underlying problem, without providing the technical features necessary for achieving this result.

**INTERNATIONAL PRELIMINARY
REPORT ON PATENTABILITY
(SEPARATE SHEET)**

International application No.

PCT/NL2004/000868

14. 10. 2005

AUXILIARY REQUEST

(65)

CLAIMS

5 1. Device for filtering tobacco smoke from a tobacco product, comprising a housing in which the tobacco product can be arranged, and a filter for filtering tobacco smoke, the housing comprising:

- a tobacco reservoir for holding tobacco,
- 10 - an outside air feed for feeding from the environment outside air necessary for the combustion of the tobacco,
- a tobacco smoke discharge for discharging tobacco smoke caused by the combustion,
- a filter connected to the tobacco smoke discharge for
- 15 filtering substances harmful to the environment from the tobacco smoke which can be guided therealong,
- a mouthpiece which is connected to the tobacco reservoir and the smoke discharge and with which a smoker can inhale the tobacco smoke from the tobacco reservoir and can
- 20 exhale the tobacco smoke to the tobacco smoke discharge, wherein the tobacco smoke discharge comprises a first discharge channel for discharging tobacco smoke in the standby situation and a second discharge channel for discharging the tobacco smoke exhaled in the exhaling
- 25 situation and a fan is arranged in the first discharge channel.

2. Device as claimed in claim 1, wherein the first and second discharge channel are combined to form a single smoke discharge channel and the fan is arranged in the

30 combined smoke discharge channel.

RENUMBERED VERSIONS OF ORIGINAL CLAIMS 2-15 AND 19-41

40. Method for filtering tobacco smoke from a tobacco product, comprising of:

- arranging the tobacco product in a tobacco reservoir in a housing of a device according to any of the preceding
5 claims, the housing being provided with one or more filters for filtering tobacco smoke;
- lighting the tobacco product;
- continuously discharging gases containing tobacco smoke from the tobacco reservoir via a first tobacco smoke
10 discharge provided in the housing, guiding the gases through said filter and subsequently discharging the filtered gases to the outside air;
- carrying gases containing tobacco smoke, during inhalation, from the tobacco smoke reservoir to a mouthpiece
15 connected to the housing;
- during exhaling of previously inhaled gases containing tobacco smoke, guiding the gases through the filter via the mouthpiece and a second tobacco smoke discharge provided in the housing, and subsequently discharging the filtered gases
20 to the outside air.

RENUMBERED VERSIONS OF ORIGINAL CLAIMS 43-51